

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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MARK LYNCH

Plaintiff,

-v.-

Civil Action No.  
1:13-cv-830 (GLS/CFH)

P.O. JAMES CLAUS, *et al.*

Defendants.

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APPEARANCES:

OF COUNSEL:

**FOR THE PLAINTIFF:**

MARK LYNCH  
Plaintiff *Pro Se*  
c/o Joseph's House  
74 Ferry Street  
Troy, New York 12180

GARY L. SHARPE,  
CHIEF JUDGE

**ORDER**

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge Christian F. Hummel, duly filed July 22, 2013. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED that the Report-Recommendation of Magistrate Judge Christian F. Hummel filed July 22, 2013 (Dkt. No. 3) is ACCEPTED in its entirety for the reasons state therein; and it is further

ORDERED that pursuant to the Court's review under 28 U.S.C. § 1915, Lynch's claims of false arrest, false imprisonment, prosecutorial misconduct, and ineffectiveness assistance of counsel be dismissed as barred by Heck v. Humphrey, 512 U.S. 477, 486-87 (1994); and it is further

ORDERED, that, prior to dismissing the municipal defendants, the court will provide the plaintiff an opportunity to amend his complaint within thirty (30) days of this Order to clarify any Monell claims; and it is further

ORDERED, that Lynch's claims alleging excessive force in violation of the Eight Amendment be accepted for filing and that, upon receipt from Lynch of the documents required for service of process, the Clerk be directed to issue summonses and forward them together with copies of Lynch's complaint and a General Order No. 25 packet which sets forth this District's civil case management plan requirements, be forwarded to the United States Marshal for service upon the defendants, and that in addition the Clerk respectfully be directed to forward a copy of the summons and complaint in this action, by mail, to the corporation counsel for the City of Schenectady and the Schenectady County Attorney's Office, together with a


copy of this report and recommendation and any subsequent order issued by this court; and it is further

ORDERED, that all pleadings, motions and other documents related to this action by be filed with the Clerk of the United States District Court, Northern District of New York, Fifth Floor, James T. Foley United States Courthouse, 445 Broadway, Room 509, Albany, New York 12207, and that any documents sent by any party to the Court or the Clerk must be accompanied by a certificate showing that a true and correct copy of that document was mailed to all opposing parties or their counsel, and that plaintiff must promptly notify the clerk's office and all parties or counsel of any change in this address, and that plaintiff's failure to do so may result in dismissal of this action; and it is

ORDERED, that the Clerk of the Court is to mail copies of the Order to the parties in accordance with the court's local rules.

IT IS SO ORDERED.

Dated: August 16, 2013  
Albany, New York

  
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Gary L. Sharpe  
Chief Judge  
U.S. District Court